Supreme Court, U.S.
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No. 05-447

IN THE

Supreme Court of the United States

AZIZOLLAH ABRISHAMIAN
Petitioner

v.

DONALD L. EVANS
Respondent

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Azizollah Abrishamian
9328 Edgewood court
Gaithersburg, MD 20877
(301) 977-2460

QUESTIONS PRESENTED

The trial court only mentioned the word "retaliation" but remained silent and failed to consider my claim or to render any opinion - it destroyed my cause of action. The Judge did this despite the fact that the employer itself had admitted that its own conduct constituted a *prima facie* case of reprisal against me. Moreover, the court arbitrarily created its own judicial standards and, by employing them, destroyed the remainder of my causes of action – hostile work environment and constructive discharge claims. The court's arbitrary standards are in conflict with the relevant standards set by this Court, uniformly employed by other courts and even in the same court when it has considered other identical cases. The Fourth Circuit Court of Appeals affirmed and refused to hold a hearing or hearing En Banc. This holding and the unconstitutional actions in the trial court raise two substantial federal questions that warrant review by this Court.

1. Whether by his refusal to consider and afford me a fair hearing of my charge, which caused the extinguishing of my cause of action, the Judge violated and deprived me of my federal right to the First Amendment, Due Process Clauses and Equal Protection Clause under the law and, in the process, he also deprived me of Protected Property Interest under the law.

2. Whether the use of arbitrary, standardless, selective and judiciary-created standards for the determination of "hostile workplace" and "constructive discharge" threatens to overturn the relevant standards already set by this Court and uniformly followed by other courts and that it also violates my federal right to Due Process Clauses, Equal Protection Clause and Protected Property Interest under the law.

PARTIES TO THE PROCEEDING

The following individuals and entities are parties to the proceeding in the courts below:

Azizollah Abrishamian, as Plaintiff and Appellant; William M. Daley, Secretary, U.S. Department of Commerce and United States Department of Commerce as Defendants and Appellees.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Azizollah Abrishamian, a former employee of the United States Government, respectfully prays that a writ of certiorari be issued to review the judgments of the courts below in this case. In plain contravention of the requirements of the Constitution of the United States and federal law, the trial court in Baltimore, Maryland, has embarked on an *ad hoc*, standardless, and unlawful exercise of judicial power, which appears designed to thwart my Constitutional Rights to petition the Government for a redress of grievances (First Amendment Rights), the Right to Due Process, the Right to Equal Protection, the Right to Protected Property Interest and the Lawful Mandates of this Court. This Court's decision is of fundamental federal importance because the issues involved have to do with the above-mentioned Constitutional enactments as well as this Court's Mandates to all other courts.

OPINION BELOW

The first opinion of the trial court dated September 30, 2003 and the court's order are provided in App. A, infra, 17 pages; the second opinion dated March 26, 2004 is provided in App. B, infra, 7 pages. The per curiam opinion of the United States Court of Appeals for the Fourth Circuit is provided in App. C, infra, 2 pages. The disposition for Rehearing and Rehearing En Banc is provide in App. D, infra, 2 pages.

JURISDICTION

The judgments of the district court were entered on September 30, 2003 and March 26, 2004; see App. A, infra, and App. B, infra respectively. A timely notice of Appeal to the United States Court of Appeals for the Fourth Circuit was filed on May 24, 2004. The Appeals Court received the Appeal on November 4, 2004 and decided on November 15, 2004; see App. C, infra. A timely petition for Rehearing and Rehearing En Banc was made and the Appeals Court's final disposition was filed on April 14, 2005; see App. D, infra.

This disposition is final. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The First Amendment to the Constitution of the United States provides, in pertinent part, that "Congress shall make no law ... abridging the freedom of speech, ... or the right of people to peaceably assemble, and to petition the Government for a redress of grievances." U.S. CONST. amend. I.

The Fifth Amendment to the Constitution of the United States provides, in pertinent part, that "No person shall be ... deprived of life, liberty, or property, without the due process of law; ..." U.S. CONST. amend. V.

The Fourteenth Amendment to the Constitution provides, in pertinent part, that "... nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV, Section 1.

Title VII. The aim of Congress in enacting Title VII, (The Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq.) is to make it unlawful for employers to "discriminate against any individual with respect to his compensation, terms, conditions, or employment privileges, because of such individual's race, color, religion, sex, or national origin." "The phrase terms, conditions, or privileges of employment in Title VII evinces a congressional intent to strike at the entire spectrum of disparate treatment of men and women in employment." Title VII also makes it unlawful for "an employer to discriminate against any of his employees ... because he has made charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Title."

STATEMENT OF THE CASE

In 1983 I joined the Robot Systems Division of the National Bureau of Standards (NBS) after the Division actively